IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 17324 of 2004

Between:

Bhagya Lakshmi Cooperative Housing Society Ltd. Regd. NO. T.B.C. 327, Office : 2-2-25, Aziz Bagh,
Amberpet, Hyderabad, rep by the Secretary Mohd. Afasaruddin Khan, S/o. Mohd. Waheeduddin Khan,
aged 48 years R/o. Hyderabad.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, Rep by its Principal Secretary, Home Department,
Secretariat Buildings, Hyderabad.
2 The Government of Andhra Pradesh, Rep by its Principal Secretary,
Municipal Administration Dept., Secretariat Buildings, Hyderabad.
3 The Commissioner of Police, Hyderabad City, Hyderabad.
4 The Commissioner, Municipal Corporation of Hyderabad, Tankbund, Hyderabad.
5 The Station House Officer, Amberpet Police Station, Hyderabad.
6 K. Laxmaiah, S/o. age not known to the petitioner
R/o. Amberpet, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction, more particularly one in the nature of a Writ of Mandamus declaring the action of the Respondents 1 to 4 is not passing orders of removing the illegal constructions being made by the Respondent No. 6 and his henchmen on the property of the petitioner society meant for park in Sy.No. 4,5 and 6, situated at Aziz Bagh, Amberpet, Hyderabad as illegal, arbitrary, unjust, against the principles of natural justice and in violation of Article 14,16,19 and 21 of the

constitution of India and pass

Counsel for the Petitioner:MR.ASADULLA SHAREEF

Counsel for the Respondent No.2: GP FOR MUNCIPAL ADMN. & URBAN DEV.

For Respondents Nos. 1, 3 and 5 : G.P. for Home.

For Respondent No.4: Mr. Ganta Rama Rao, S.C. for MCH.

The Court made the following :

ORDER:

Heard the learned counsel on either side and with their consent the writ petition itself is disposed of at the stage of admission.

Since the 6th respondent instituted suit in O.S.No.16499 of 2003 and obtained injunction not to interfere with his construction activity in property bearing No.2-2-24/4/A, Aziz Bagh, Amberpet, Hyderabad, the proper remedy for the petitioner-Society is to move the Civil Court and get themselves impleaded in the suit and safeguard the right over the property, if owned and possessed by them, in case there is any threat of encroachment into the land of the petitioner-Society by the 6th respondent.

When the civil suit is pending, either this court or the municipal

authorities cannot inquire into the fact as to the ownership of the property or encroachment over the same. The petitioner-Society can agitate for their rights over the property in the pending suit by getting itself impleaded in accordance with law.

The writ petition is not maintainable and the same is dismissed. No costs.

28.9.2004

CVM

To,

1 The Government of Andhra Pradesh, Rep by its Principal Secretary, Home Department,
Secretariat Buildings, Hyderabad.
2 The Government of Andhra Pradesh, Rep by its Principal Secretary,
Municipal Administration Dept., Secretariat Buildings, Hyderabad.
3 The Commissioner of Police, Hyderabad City, Hyderabad.
4 The Commissioner, Municipal Corporation of Hyderabad, Tankbund, Hyderabad.
5 The Station House Officer, Amberpet Police Station, Hyderabad.
6 2 CCs each to G.P. for Home and G.P. for Municipal Admn. & Urban Dev., High Court of A.P., Hyderabad (OUT).

7 2 CD copies.